

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 14 1997

In the Matter of)	
)	
Implementation of the)	CC Docket No. 96-152
Telecommunications Act of 1996:)	
)	
Telemessaging,)	
Electronic Publishing, and)	
Alarm Monitoring Services)	

BELLSOUTH REPLY COMMENTS

BellSouth Corporation ("BellSouth"), on behalf of its subsidiaries and affiliates, hereby addresses comments submitted in response to AT&T's Petition for Reconsideration of the Commission's *First Report and Order* in this proceeding.¹

In its Petition, AT&T asked the Commission to impose a more stringent "operational independence" standard than is required by Section 274(b)² of the Act.³ Parties responding to AT&T's Petition unanimously opposed it.⁴

First, as several parties pointed out, AT&T merely repeats arguments the Commission rejected previously.⁵ Such repetition does not warrant reconsideration.

¹ *Implementation of the Telecommunications Act of 1996; Telemessaging, Electronic Publishing, and Alarm Monitoring*, CC Docket No. 96-152, *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 97-35 (rel. Feb. 7, 1997) ("First Report and Order").

² 47 U.S.C. § 274(b).

³ Communications Act of 1934, as amended, 47 U.S.C. §§ 151 *et seq.*

⁴ Parties filing comments in addition to BellSouth were: SBC Communications, Inc. ("SBC"); Bell Atlantic and NYNEX Telephone Companies ("Bell Atlantic/NYNEX"); Yellow Pages Publishers Association ("YPPA").

⁵ Bell Atlantic/NYNEX at 2; SBC at 1-2.

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Second, parties disproved AT&T's theory that the Commission must read "operate independently" expansively under Section 274(b) because it had already done so under Section 272(b).⁶ Parties refuted AT&T's contention that the Commission's decision to permit a BOC to offer services covered by either Section 272(b) and Section 274(b) through a single affiliate was based on a Commission determination of similarities in purpose and structure between the two sections.⁷ To the contrary, parties showed that the Commission focused on the *differences* between the two sections, requiring compliance with the stricter of the two, but finding no statutory basis to prohibit both types of offerings through a single entity notwithstanding those differences. Thus, AT&T's attempt through indirect analogy to have the Commission create additional substantive requirements for "operational independence" under Section 274(b) as it did under 272(b) could not be substantiated.

Third, parties countered AT&T's attempt to belittle the Commission's statutory interpretation based on the structural differences between Sections 272 and 274.⁸ Congress crafted those sections differently and the Commission was within its authority to give meaning to those differences, as well as to construe the provisions by the plain meaning of the words used by Congress.

Finally, parties rebutted AT&T's arguments based on prior Commission decisions establishing an "operational independence" standard.⁹ On the one hand, that standard has never been "settled," as AT&T alleged.¹⁰ Moreover, even to the extent the Commission has given

⁶ 47 U.S.C. § 272(b).

⁷ BellSouth at 2-3; SBC at 2, n.3.

⁸ BellSouth at 3; SBC at 3-5; YPPA at 2.

⁹ BellSouth at 3-4; SBC at 5.


¹⁰ BellSouth at 3-4.

meaning to that term in the past, the Commission's action in this proceeding did not amount to modification or rescission of a prior standard. Rather, the Commission adopted new rules to conform to a new statutory framework.¹¹

In short, the comments confirm that AT&T has failed to provide any basis upon which the Commission should reconsider its decision regarding "operational independence" in the *First Report and Order*. Accordingly, AT&T's Petition must be denied.

Respectfully submitted,

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¹¹ BellSouth at 4; SBC at 5.

CERTIFICATE OF SERVICE
(CC Docket No. 96-152)

I hereby certify that I have on this 14th day of May, 1997 served the following parties to this action with a copy of the foregoing **BELLSOUH REPLY COMMENTS** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties on the attached service list.


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